

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

AXCESS GLOBAL SCIENCES,  
LLC, a Utah Limited Liability  
Company,

Plaintiff,

vs.

BUDDIBOX LLC *dba* eSHOP  
DIRECT *dba* WW Supplements *dba*  
Total Vitamins, a Georgia Limited  
Liability Company and Hadis  
Nuhanovic, an individual,

Defendants.

Case No. \_\_\_\_\_

**COMPLAINT FOR PATENT  
INFRINGEMENT, TRADEMARK  
INFRINGEMENT, FALSE  
ADVERTISING, AND UNFAIR  
COMPETITION**

**DEMAND FOR JURY TRIAL**

**COMPLAINT**

Plaintiff Axxcess Global Sciences, LLC (“AGS” or “Plaintiff”) complains and alleges the following against Buddibox LLC *dba* eSHOP DIRECT *dba* WW Supplements *dba* Total Vitamins (“Buddibox”) and Hadis Nuhanovic (“Nuhanovic”) (collectively, “Defendants”).

**NATURE OF THE CLAIMS**

1. This is an action for trademark infringement, false advertising, and unfair competition under 15 U.S.C. §§ 1114(a)-(b) and 1125(a)-(c), and patent

infringement under 35 U.S.C. §§ 1, *et seq.*

2. Plaintiff is the owner of the registered trademark, goBHB® (Reg. No. 5261845). *See* Ex. A. The goBHB® trademark is applied to products sold by the Plaintiff and its licensees that contain Plaintiff’s goBHB® branded ingredients.

3. Plaintiff is also the owner of U.S. Pat. Nos. 11,241,403 (the “’403 Patent”) and 11,020,362 (the “’362 Patent”) (together, the “Non-MCT Patents”) and U.S. Pat. No. 10,292,952 (the “’952 Patent” or “MCT Patent”) (together with the Non-MCT Patents, the “Asserted Patents”). *See* Exs. B-D. The Asserted Patents include claims for unique formulations of the health supplement Beta-Hydroxybutyrate (“BHB”).

4. Defendants base an entire business on infringing the Asserted Patents, the Plaintiff’s goBHB® mark, and the intellectual property of third parties. Defendants make, use, advertise, import, offer for sale, and/or sell dozens of products that infringe Plaintiff’s goBHB® mark and the Asserted Patents:



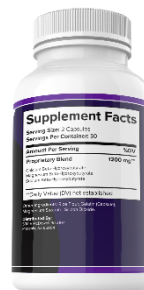
[Advanced Keto 1500](#)  
Infringes the Non-MCT Patents



[Brilliant Catalyst Keto](#)  
Infringes the Non-MCT Patents



[Complete Keto](#)  
Infringes the Non-MCT Patents





[Keto 3D](#)

Infringes the Non-MCT Patents



[ThinQuick Keto](#)

Infringes the Non-MCT Patents



[Keto Fast Burn](#)

Infringes the Non-MCT Patents



[Keto Ascend](#)

Infringes the Non-MCT Patents



[Keto BHB Ketosis](#)

Infringes the Non-MCT Patents



[Keto Bloom](#)

Infringes the Non-MCT Patents



[Natures Keto Boost](#)

Infringes the Non-MCT Patents



[Keto Burn 800](#)

Infringes the Non-MCT Patents



[Keto Charge](#)

Infringes the Non-MCT Patents



[Keto Platinum](#)

Infringes the Non-MCT Patents



[Ketokor](#)

Infringes the Non-MCT Patents



[Keto 360 Slim](#)

Infringes the Non-MCT Patents



[Quick Shred Keto](#)  
Infringes the Non-MCT Patents



[Ultra Keto X](#)  
Infringes the Non-MCT Patents



[Keto Vibe](#)  
Infringes the Non-MCT Patents



[Keto Elite](#)  
Infringes the Non-MCT Patents



[Keto Advantage](#)  
Infringes the Non-MCT Patents



[Zero G Keto](#)  
Infringes the Non-MCT Patents



[Ideal Science Keto](#)  
Infringes the Non-MCT Patents



[Complex Keto Burn](#)  
Infringes the Non-MCT Patents



[Macro Supreme Keto](#)  
Infringes the Non-MCT Patents



[Lyte Advanced Keto](#)  
Infringes the Non-MCT Patents



[Ideal Intensity Keto](#)  
Infringes the Non-MCT Patents



[Keto Wave](#)  
Infringes the Non-MCT Patents





[Kyto Fit](#)  
Infringes the Non-MCT Patents



[Optimal Life Keto](#)  
Infringes the Non-MCT Patents



[AthletePharm Keto](#)  
Infringes the Non-MCT Patents



[Keto Craze Diet](#)  
Infringes the Non-MCT Patents



[Keto Burn 360](#)  
Infringes the Non-MCT Patents



[Keto GT](#)  
Infringes the Non-MCT Patents



[Keto Lite](#)  
Infringes the Non-MCT Patents



[Keto Strong](#)  
Infringes the Non-MCT Patents



[Oxyphen Keto XR](#)  
Infringes the Non-MCT Patents



[KetoGo](#)  
Infringes the Non-MCT Patents



[Kure Keto](#)  
Infringes the Non-MCT Patents



[Max Thrive Keto](#)  
Infringes the Non-MCT Patents



[One Shot Keto](#)  
Infringes the Non-MCT Patents



[Power Blast Keto](#)  
Infringes the Non-MCT Patents



[Quick Keto](#)  
Infringes the Non-MCT Patents



[Safeline Keto](#)  
Infringes the Non-MCT Patents



[Slim Tone Keto](#)  
Infringes the Non-MCT Patents



[New You Keto](#)  
Infringes the Non-MCT Patents



[Electro Keto](#)  
Infringes the Non-MCT Patents and the goBHB® mark



[Torch Keto](#)  
Infringes the Non-MCT Patents and the goBHB® mark



[Nature Slim Keto](#)  
Infringes the Non-MCT Patents and the goBHB® mark



[Keto Complete](#)  
Infringes the Non-MCT Patents and the goBHB® mark



[Keto Scorch](#)  
Infringes the Non-MCT Patents and the goBHB® mark



[Supreme Keto](#)  
Infringes the Non-MCT Patents and the goBHB® mark



Keto Burn

Infringes the Non-MCT Patents and the goBHB® mark



TruBurn Keto

Infringes the Non-MCT Patents and the goBHB® mark



Keto MD

Infringes the MCT Patent and the goBHB® mark



Keto VIP

Infringes the MCT Patent



Nutra Flame Keto

Infringes the MCT Patent



Pure Keto ES Extreme 1200

Infringes the MCT Patent



Burn 5X Keto

Infringes the MCT Patent



Divatrim Keto

Infringes the MCT Patent



Fast Fit Keto

Infringes the MCT Patent



Fitness Keto

Infringes the MCT Patent



Keto 3X Ultra Trim

Infringes the MCT Patent



Keto Health

Infringes the MCT Patent

5. As detailed above, Defendants make, use, import, offer for sale, and/or

sell at least ten products that infringe Plaintiff's MCT Patent (the "MCT Infringing Products") and at least 53 products that infringe Plaintiff's Non-MCT Patents (the "Non-MCT Infringing Products") (collectively, the "Accused Products"). As also detailed above, at least nine of the Accused Products also infringe Plaintiff's goBHB® mark (the "goBHB® Infringing Products").

6. Plaintiff is a direct competitor of Defendants in the dietary supplements market and specifically for BHB and ketone supplements.

7. Plaintiff has suffered harm from Defendants' unauthorized use of the goBHB® trademark in the form of lost profits, diverted sales and market share, and the weakening of Plaintiff's public perception and goodwill.

8. Plaintiff has suffered harm from Defendants falsely advertising that the goBHB® Infringing Products contain Plaintiff's quality-controlled, trademarked ingredients in the form of lost profits, diverted sales and market share, and the weakening of Plaintiff's public perception and goodwill.

9. Plaintiff has suffered harm from Defendants' infringement of the Asserted Patents in the form of lost profits.

10. Plaintiff's immediate, irreparable injuries have no adequate remedy at law, and Plaintiff is entitled to injunctive relief and up to three times its actual



damages and/or an award of Defendants' profits, as well as costs and reasonable attorney fees.

### **THE PARTIES**

11. Plaintiff Axxcess Global Sciences, LLC is a Utah limited liability company with a principal place of business at 2157 Lincoln Street, Salt Lake City, UT 84106.

12. Defendant Buddibox is a Georgia limited liability company with a principal place of business at 4200 Industrial Center Ln NW #101, Acworth, GA 30101:



<https://lh3.googleusercontent.com/p/AF1QipMBGiWb4pk7E5Q2j5ZOX3QLBbI9OG0G3kFONXLv>

Buddibox also has a Georgia registered agent—Georgia Registered Agent LLC—with a principal address at 8735 Dunwoody Place, Ste 6, Atlanta, GA 30350, USA.

13. On information and belief, Defendant Nuhanovic is a permanent resident of Acworth, GA, *see USA v. Nuhanovic*, 2:20-CR-00151-RAJ, Dkt. 47

(W.D. Wash. Oct. 15, 2020) (appearance bond for Nuhanovic identifying city and state of residence), currently serving the remainder of a 20-month prison sentence at Federal Prison Camp Montgomery at Maxwell Air Force Base in Montgomery, AL 36112 (Bureau of Prisons, Prisoner Reg. No. 09035-509).

14. In September 2020, Nuhanovic was indicted for several federal crimes relating to his Amazon seller and consulting businesses, including for selling counterfeit products, bribing Amazon employees, wire fraud, and tax evasion. *See* W.D. Wash. Press Release (Feb. 10, 2023) (<https://www.justice.gov/usao-wdwa/pr/amazon-seller-and-consultant-sentenced-20-months-prison-bribery-scheme-and-illegal>) and IRS Press Release (Sep. 8, 2023) (<https://www.irs.gov/compliance/criminal-investigation/final-two-us-based-defendants-in-amazon-bribery-case-sentenced>).

15. In February 2023, Nuhanovic pled guilty to two crimes and was sentenced to 20 months in prison and \$260,453 in forfeiture and restitution. *See id.*; *see also USA v. Nuhanovic*, 2:20-CR-00151, Dkt. 47 (W.D. Wash. Feb. 10, 2023).

16. On information and belief, Defendants began the misconduct alleged herein—patent infringement, trademark infringement, false advertising, and unfair competition—while Nuhanovic was under criminal investigation for similar misconduct by various offices of the federal government. Defendants’ misconduct

continues even today, while Nuhanovic is serving a prison sentence for his crimes.

17. On information and belief, Nuhanovic is the CEO and owner of Buddibox and exercises unilateral control over Buddibox. Also on information and belief, Nuhanovic uses Buddibox in a fraudulent attempt to shield himself from liability for the egregious and intentional misconduct alleged herein. Defendants, therefore, are alter egos of each other and, at least for purposes of the misconduct alleged herein, are effectively the same entity.

18. On information and belief, Defendants are doing business out of Georgia under several aliases, including eSHOP DIRECT, WW Supplements, and Total Vitamins, but have failed to register these aliases with the state as required by O.C.G.A. § 10-1-490. Also on information and belief, Defendants use this web of aliases to obscure their true identity in furtherance of the misconduct alleged herein.

### **JURISDICTION**

19. This matter arises under the laws of the United States, including under the Lanham Act, 15 U.S.C. §§ 1114(a)-(b) and 1125(a)-(c), and under the patent laws of the United States, 35 U.S.C. §§ 1, *et seq.* Thus, the Court has federal question subject matter jurisdiction under 28 U.S.C. § 1331.

20. The Court has personal jurisdiction over Defendants, and venue is proper in this District pursuant to 28 U.S.C. §§ 1391 and 1400(b), at least because

both Defendants (1) reside in this District, (2) have a regular and established place of business in this District, and (3) have committed a substantial portion of the infringements and other misdeeds giving rise to this action from within this District. Buddibox also has a registered agent in this District.

### **BACKGROUND**

21. Plaintiff is a leader and innovator in the field of exogenous ketones and ketogenic precursor supplement products. These products aid the body in producing and sustaining elevated levels of ketone bodies in the blood and assist in the body's transition into nutritional ketosis. Plaintiff has patent rights in many unique formulations of BHB, including those claimed in the Asserted Patents.

22. Plaintiff also sells and licenses products under the trademark goBHB® that contain the same formulations of BHB protected by the Asserted Patents. The goBHB® mark is widely known in the supplement, nutrition, and fitness industries.

23. The scale of Defendants' misconduct is substantial. Defendants engage in hundreds of unique instances of patent infringement, trademark infringement, and copyright infringement—ripping off Plaintiff's brands and patented formulas and those of third parties. Defendants have also implemented an extensive false advertising campaign to promote the Accused Products.



24. Defendants make, use, advertise, import, offer for sale, and/or sell the Accused Products with BHB formulations that infringe Plaintiff's exclusive rights in the Asserted Patents.

25. Defendants also falsely advertise that the goBHB® Infringing Products contain goBHB®-branded ingredients and use the goBHB® mark in their advertising without authorization from Plaintiff.

26. On information and belief, Defendants also engage in the infringement of third parties' intellectual property, including trademark, trade dress, and copyright infringement. For example, Defendants sell nearly every Accused Product under the brand "Total Vitamins":



<https://www.ebay.com/itm/255017111659>

27. TOTAL VITAMINS is a registered trademark (Reg. No. 6220795) owned by Sirah LLC, a Wyoming company, with exclusive rights for dietary supplements and related goods and services. Defendants use the trademark

registration symbol “®”, and yet, on information and belief, do not have any right to use the TOTAL VITAMINS mark.

28. Defendant engages in additional misconduct. For example, many—if not all—of the Defendants’ products are rip-offs of original products sold by other entities. KETOSCORCH, for example, is a trademarked name (Ser. No. 97499625) owned by Viro Supplement Labs LLC, a Wyoming company. Defendants copy not only the trademarked KETOSCORCH name, but also the trademark owner’s trade dress and copyright-protected labelling:



[Original Keto Scorch](#)



[Defendants' Keto Scorch](#)

This is Defendants’ modus operandi, as shown for the exemplary products below:



Original One Shot Keto



Defendants' One Shot Keto



Original Keto GT



Defendants' Keto GT



Original Keto Ascend



Defendants' Keto Ascend

29. On information and belief, Defendants copy the product listings of third parties *verbatim*, infringing their inherent copyright protection. Compare, for example, the original listing below to Defendants’ listing, where Defendants even failed to omit the original brand name:

**Original Listing – LivePerNature**

“FAT-BURNING SUPPLEMENT:  
Formulated using a proprietary blend of Calcium BHB, Sodium BHB, and Magnesium BHB, the LivePerNature Premium Keto Fat Burner Dietary Supplement is designed to help you achieve the ultimate ketosis while still supporting peak athletic performance. With it, your body will burn fat more quickly and then uses that fat to create energy.”

<https://www.kroger.com/p/weight-loss-fat-burner-supplement-for-women-men/0370149415217>

**Defendants’ Listing – Keto Platinum**

“FAT-BURNING SUPPLEMENT:  
Formulated using a proprietary blend of Calcium BHB, Sodium BHB, and Magnesium BHB, the LivePerNature Premium Keto Fat Burner Dietary Supplement is designed to help you achieve the ultimate ketosis while still supporting peak athletic performance. With it, your body will burn fat more quickly and then uses that fat to create energy.”

<https://www.ebay.com/itm/254028667401>

30. Defendants’ infringements and other misconduct alleged herein are knowing and willful. Defendants, for example, use Plaintiff’s trademarked goBHB® name on their products and even use the trademark registration symbol “®”—acknowledging that the name is trademarked—yet know that they do not have a license to use the goBHB® mark:





<https://www.ebay.com/itm/255017111659>



<https://www.ebay.com/itm/254929872482>



<https://www.ebay.com/itm/254931192429>

31. Similarly, on information and belief, when copying labels and listings from third parties, Defendants were exposed to many statements regarding the patented formulations of the Accused Products and know that Defendants do not have a license to use those patented formulations, as evidenced below for just one such product listing. *See* Keto Scorch Homepage (<https://web.archive.org/web/20230605090001/https://ketoscorch.com/>):

- “KetoScorch uses **patented goBHB™** for faster ketosis & weight loss.”

- “WEIGHT LOSS WITH **PATENTED goBHB™**.”
- “Start Your Journey With **Patented goBHB™** Today!”
- “With every dose, you get the **patented** and clinically tested version of beta hydroxybutyrate, the far superior goBHB™.”
- “Taking the **patented version** of betahydroxybuterate (goBHB™), will allow you to achieve ketosis at an accelerated rate and start burning fat as fuel, rather than rely on carbohydrates for energy.”

32. Indeed, in their own advertising for the Accused Products, Defendants acknowledge that they use patented formulas of BHB and yet know that they does not have any license to those patented formulas. *See e.g.*, Keto Platinum ([www.ebay.com/itm/254028667401](http://www.ebay.com/itm/254028667401)):

- “This **patented formula** is made with Calcium BHB, Sodium BHB, and Magnesium BHB to help cleanse and fuel the body, burning fat and then using it as a primary fuel source.”
- “**BHB-PATENTED FORMULA:** This advanced weight loss formula supports a ketogenic lifestyle, using fat as a primary fuel source and enhancing quick, safe weight loss.”

33. Furthermore, on information and belief, Defendants have falsely advertised that at least two of the most popular Accused Products have an affiliation with the television program, *Shark Tank* (the “False *Shark Tank* Products”):

- [Keto Platinum](#), headlined as “Shark Tank Keto Diet Pills - Weight Loss Fat Burner Supplement for Women & Men.”
- [Ultra Keto X](#), headlined as “Ultra Keto X Burn Shark Tank 800mg Ketones Pure Keto Fast Weight Loss Supplement.”

34. On information and belief, the False *Shark Tank* Products were never affiliated with *Shark Tank*. See <https://allsharktankproducts.com/show-all/> (listing all *Shark Tank* products).

35. Also on information and belief, Defendants are attempting to profit from a trend of marketplace bad actors falsely associating keto products with *Shark Tank*—a false advertising scandal recognized by the FTC. See FTC Consumer Alert, *Did your favorite Shark Tank celebrity really endorse THAT? Probably not* (2023) (accessible at: <https://consumer.ftc.gov/consumer-alerts/2023/02/did-your-favorite-shark-tank-celebrity-really-endorse-probably-not>) (“Before you spend money on that ‘Shark-approved’ . . . keto diet pill, are you sure it’s really been through the *Tank*? Really sure? Scammers are using fake *Shark Tank* celebrity testimonials and endorsements—complete with doctored photos and videos—to generate buzz and profits.”).

36. Actual consumers have already been misled by Defendants’ false claims of an affiliation with *Shark Tank*:



<https://www.ebay.com/str/buddibox#tab2>

37. Defendants' infringements and other misconduct alleged herein have injured Plaintiff. Plaintiff's immediate, irreparable injuries have no adequate remedy at law and Plaintiff is entitled to injunctive relief and up to three times its actual damages and/or an award of Defendants' profits, as well as costs and reasonable attorney fees.

**FIRST CLAIM FOR RELIEF**  
**Trademark Infringement**  
**Unauthorized Use of the goBHB® Mark**  
**15 U.S.C. § 1114(a)**

38. Plaintiff incorporates and realleges the allegations of preceding paragraphs 1, 2, 4-8, 10, 13-19, 21-23, 25, 30, and 37 as if fully set forth herein.

39. Plaintiff owns all rights in the federally registered goBHB® trademark (Reg. No. 5261845). *See* Ex. A.

40. Plaintiff is the owner of the goBHB® trademark by assignment.

41. Defendants use the goBHB® trademark on the goBHB® Infringing Products and advertising, without authorization from Plaintiff, as exemplified below:



<https://www.ebay.com/itm/255017111659>



42. Defendants' unauthorized use of the goBHB® mark is likely to confuse consumers, to cause mistake among consumers, and to deceive consumers into believing that the goBHB® Infringing Products contain Plaintiff's branded ingredients, at least because Defendants use the goBHB® mark in exactly the same manner, and on the same kinds of products, as Plaintiff and its licensees, and because Plaintiff's goBHB® mark is distinctive and famous in the health, wellness, and supplements industries.

43. Defendants' trademark infringement is willful at least because Defendants (1) repeatedly use the full mark, exactly as registered, on their product labels and advertising, (2) use the mark for the precise class of goods for which it is registered (*see* Ex. A ("nutritional or dietary supplements in the nature of powder consisting of a beta hydroxybutyrate salt of either calcium, sodium, potassium or magnesium for use in food and dietary supplements to increase blood ketone levels")), and (3) even use the trademark registration symbol, "®", knowing that they does not have authorization from Plaintiff to use the mark.

44. Plaintiff has suffered harm from Defendants' unauthorized use of the goBHB® trademark in the form of lost profits, diverted sales and market share, and the weakening of Plaintiff's public perception and goodwill.

**SECOND CLAIM FOR RELIEF**  
**False Advertising and Unfair Competition**  
**Unauthorized Use of the goBHB® Mark**  
**15 U.S.C. § 1125(a)**

45. Plaintiff incorporates and realleges the allegations of preceding paragraphs 1, 2, 4-8, 10, 13-19, 21-32, and 37-44 as if fully set forth herein.

46. Plaintiff owns rights in the federally registered goBHB® trademark (U.S. Trademark Reg. No. 5261845). *See* Ex. A.

47. Plaintiff is the owner of the goBHB® trademark by assignment.

48. Defendants' advertising and product information falsely state that the goBHB® Infringing Products contain goBHB®-branded ingredients. Defendants do not have authorization from Plaintiff to use the goBHB® mark on their products or advertising.

49. Defendants use the goBHB® trademark on the goBHB® Infringing Products and advertising, without authorization from Plaintiff, as exemplified below:



<https://www.ebay.com/itm/255017111659>

50. Defendants' unauthorized use of the goBHB® mark is likely to confuse consumers, to cause mistake among consumers, and to deceive consumers into believing that the goBHB® Infringing Products contain Plaintiff's branded ingredients, at least because Defendants use the goBHB® mark in exactly the same manner, and on the same kinds of products, as Plaintiff and its licensees, and because Plaintiff's goBHB® mark is distinctive and famous in the health, wellness, and supplements industries.

51. Defendants' false advertising and unfair competition is willful at least because Defendants (1) repeatedly use the full mark, exactly as registered, on their product labels and advertising, (2) use the mark for the precise class of goods for which it is registered (see Ex. A ("nutritional or dietary supplements in the nature of powder consisting of a beta hydroxybutyrate salt of either calcium, sodium, potassium or magnesium for use in food and dietary supplements to increase blood ketone levels")), and (3) even use the trademark registration symbol, "®", knowing that they does not have authorization from Plaintiff to use the mark.

52. Plaintiff is a direct competitor of Defendants in the dietary supplements market and specifically for BHB and ketone supplements.

53. Plaintiff has suffered harm from Defendants’ false advertising and unfair competition in the form of lost profits, diverted sales and market share, and the weakening of Plaintiff’s public perception and goodwill.

**THIRD CLAIM FOR RELIEF**  
**False Advertising and Unfair Competition**  
**15 U.S.C. § 1125(a)**

54. Plaintiff incorporates and realleges the allegations of preceding paragraphs 1, 4, 6, 13-19, 26-28, and 38-42 as if fully set forth herein.

55. Defendants have falsely advertised that at least two of their most popular Accused Products—the False *Shark Tank* Products—have an affiliation with the popular television program, *Shark Tank*:

- [Keto Platinum](#), headlined as “Shark Tank Keto Diet Pills - Weight Loss Fat Burner Supplement for Women & Men.”
- [Ultra Keto X](#), headlined as “Ultra Keto X Burn Shark Tank 800mg Ketones Pure Keto Fast Weight Loss Supplement.”

56. On information and belief, Defendants are attempting to profit from a known scam of falsely claiming an affiliation with *Shark Tank* to promote keto pills.

57. Defendants’ false *Shark Tank* advertising strategy has a tendency to deceive consumers who trust the show *Shark Tank* and its prominent celebrity hosts for their endorsements. Indeed, actual consumers have already been misled by Defendants’ false claims of an affiliation with *Shark Tank*:





<https://www.ebay.com/str/buddibox#tab2>

58. Plaintiff is a direct competitor of Defendants in the dietary supplements market and specifically for BHB and ketone supplements.

59. Plaintiff has been harmed by Defendants' false *Shark Tank* advertising strategy in the form of lost profits, diverted and market share, and the weakening of Plaintiff's public perception and goodwill.

**FOURTH CLAIM FOR RELIEF**  
**Patent Infringement – '403 Patent**  
**35 U.S.C. §§ 1, *et seq.***

60. Plaintiff incorporates and realleges the allegations of preceding paragraphs 1, 3-6, 9, 10, 13-24, 26, 27, and 32 as if fully set forth herein.

61. Plaintiff owns all rights in the '403 Patent.

62. On February 8, 2022, the '403 Patent, titled "Beta-hydroxybutyrate mixed salt compositions and methods of use" was duly and legally issued. A true and correct copy of the '403 Patent is attached as Exhibit B.

63. Plaintiff and its licensees have marked their products in accordance with 35 U.S.C. § 287(a).

64. Without license or authorization, Defendants make, use, import, offer for sale, and/or sell the Non-MCT Infringing Products containing compounds that infringe the '403 Patent.

65. On information and belief, although they are marketed under different brands, with different labelling and listings, each of the at least 53 Non-MCT Infringing Products is made with the same concentrations of the same ingredients, as exemplified below for Defendants' infringing Keto Platinum product:

<b>Supplement Facts</b>		
<b>Serving Size: 2 Capsules</b>		
<b>Servings Per Container: 30</b>		
<b>Amount Per Serving</b>		<b>%DV</b>
<b>Proprietary Blend:</b>	<b>800mg</b>	<b>**</b>
Magnesium Beta-Hydroxybutyrate, Calcium Beta-Hydroxybutyrate and Sodium Beta-Hydroxybutyrate		
<b>** Daily Value (DV) not established</b>		
<b>Other Ingredients :</b> Rice Flour, Gelatin(capsule), Magnesium Stearate and Silicon Dioxide.		

[www.ebay.com/itm/254028667401](http://www.ebay.com/itm/254028667401)

66. Representative claim 1 of the '403 Patent is reproduced below:

1. A composition for increasing ketone level in a subject, comprising:

a plurality of beta-hydroxybutyrate salts comprised of:  
at least one beta-hydroxybutyrate salt selected from:  
calcium beta-hydroxybutyrate; and  
magnesium beta-hydroxybutyrate; and  
at least one other beta-hydroxybutyrate salt selected from:  
sodium beta-hydroxybutyrate;  
potassium beta-hydroxybutyrate;  
calcium beta-hydroxybutyrate;  
magnesium beta-hydroxybutyrate; and  
amino acid salts of beta-hydroxybutyrate,  
wherein the beta-hydroxybutyrate salts comprise at least 20% by  
total weight of calcium beta-hydroxybutyrate and/or  
magnesium beta-hydroxybutyrate,  
wherein the composition is in solid and/or powder form,  
wherein the composition is free of medium chain fatty acids  
having 6 to 12 carbons and glycerides or other esters thereof.

67. As advertised in Defendants' product labels and listings, the Non-MCT Infringing Products infringe at least representative claim 1 of the '403 Patent in the manner described below.

68. To the extent the preamble of claim 1 is limiting, the Non-MCT Infringing Products meet the preamble of claim 1 as set forth below:

1. **A composition for increasing ketone level in a subject, comprising:  
a plurality of beta-hydroxybutyrate salts comprised of:**  
at least one beta-hydroxybutyrate salt selected from:  
calcium beta-hydroxybutyrate; and  
magnesium beta-hydroxybutyrate; and  
at least one other beta-hydroxybutyrate salt selected from:  
sodium beta-hydroxybutyrate;  
potassium beta-hydroxybutyrate;  
calcium beta-hydroxybutyrate;  
magnesium beta-hydroxybutyrate; and

amino acid salts of beta-hydroxybutyrate,  
 wherein the beta-hydroxybutyrate salts comprise at least 20% by  
 total weight of calcium beta-hydroxybutyrate and/or  
 magnesium beta-hydroxybutyrate,  
 wherein the composition is in solid and/or powder form,  
 wherein the composition is free of medium chain fatty acids  
 having 6 to 12 carbons and glycerides or other esters thereof.

Most individuals receive energy from carbohydrates, resulting in a tired, fatigued feeling. This patented formula is made with Calcium BHB, Sodium BHB, and Magnesium BHB to help cleanse and fuel the body, **burning fat** and then using it as a **primary fuel source**. As such, this ultimate fat-burning formula not only promotes weight loss, but it's designed to boost your workout performance as well.

[www.ebay.com/itm/254028667401](http://www.ebay.com/itm/254028667401)

69. The Non-MCT Infringing Products further meet the limitations of claim

1 as set forth below:

1. A composition for increasing ketone level in a subject, comprising:
  - a plurality of beta-hydroxybutyrate salts comprised of:
    - at least one beta-hydroxybutyrate salt selected from:
      - calcium beta-hydroxybutyrate; and
      - magnesium beta-hydroxybutyrate**; and
    - at least one other beta-hydroxybutyrate salt selected from:
      - sodium beta-hydroxybutyrate;
      - potassium beta-hydroxybutyrate;
      - calcium beta-hydroxybutyrate;
      - magnesium beta-hydroxybutyrate; and
      - amino acid salts of beta-hydroxybutyrate,
  - wherein the beta-hydroxybutyrate salts comprise at least 20% by total weight of calcium beta-hydroxybutyrate and/or magnesium beta-hydroxybutyrate,
  - wherein the composition is in solid and/or powder form,

wherein the composition is free of medium chain fatty acids having 6 to 12 carbons and glycerides or other esters thereof.

<b>Supplement Facts</b>		
<b>Serving Size: 2 Capsules</b>		
<b>Servings Per Container: 30</b>		
<b>Amount Per Serving</b>		<b>%DV</b>
<b>Proprietary Blend:</b>	<b>800mg</b>	<b>**</b>
<b>Magnesium Beta-Hydroxybutyrate, Calcium Beta-Hydroxybutyrate and Sodium Beta-Hydroxybutyrate</b>		
<b>** Daily Value (DV) not established</b>		
<b>Other Ingredients :</b> Rice Flour, Gelatin(capsule), Magnesium Stearate and Silicon Dioxide.		

[www.ebay.com/itm/254028667401](http://www.ebay.com/itm/254028667401)

70. The Non-MCT Infringing Products further meet the limitations of claim

1 as set forth below:

1. A composition for increasing ketone level in a subject, comprising:
  - a plurality of beta-hydroxybutyrate salts comprised of:
    - at least one beta-hydroxybutyrate salt selected from:
      - calcium beta-hydroxybutyrate; and
      - magnesium beta-hydroxybutyrate; and
    - at least one other beta-hydroxybutyrate salt selected from:
      - sodium beta-hydroxybutyrate;**
      - potassium beta-hydroxybutyrate;
      - calcium beta-hydroxybutyrate;**
      - magnesium beta-hydroxybutyrate; and

amino acid salts of beta-hydroxybutyrate,  
 wherein the beta-hydroxybutyrate salts comprise at least 20% by  
 total weight of calcium beta-hydroxybutyrate and/or  
 magnesium beta-hydroxybutyrate,  
 wherein the composition is in solid and/or powder form,  
 wherein the composition is free of medium chain fatty acids  
 having 6 to 12 carbons and glycerides or other esters thereof.



[www.ebay.com/itm/254028667401](http://www.ebay.com/itm/254028667401)

71. The Non-MCT Infringing Products further meet the limitations of claim

1 as set forth below:

1. A composition for increasing ketone level in a subject, comprising:  
 a plurality of beta-hydroxybutyrate salts comprised of:  
 at least one beta-hydroxybutyrate salt selected from:  
 calcium beta-hydroxybutyrate; and  
 magnesium beta-hydroxybutyrate; and



at least one other beta-hydroxybutyrate salt selected from:  
sodium beta-hydroxybutyrate;  
potassium beta-hydroxybutyrate;  
calcium beta-hydroxybutyrate;  
magnesium beta-hydroxybutyrate; and  
amino acid salts of beta-hydroxybutyrate,  
**wherein the beta-hydroxybutyrate salts comprise at least  
20% by total weight of calcium beta-hydroxybutyrate  
and/or magnesium beta-hydroxybutyrate,**  
wherein the composition is in solid and/or powder form,  
wherein the composition is free of medium chain fatty acids  
having 6 to 12 carbons and glycerides or other esters thereof.

Sample Num: 23CH12773			Lot Number: 30112		
Client Sample Num: EBKEPLA092423 Shark Tank Keto Platinum					
Comments:					
<u>Analysis</u>	<u>Method Reference</u>	<u>Result</u>	<u>Unit</u>	<u>Analysis Date</u>	<u>Approval Date</u>
Beta-Hydroxybutyrate (BHB)	BCAL-DV-AMP052 HPLC	389	mg/svg	10/19/2023	11/06/2023
Calcium	BCAL-DV-AMP051	43.2	mg/svg	10/20/2023	11/06/2023
Calcium 3-Hydroxybutyrate salt	BCAL-DV-AMP051 and BCAL-DV-AMP052	266	mg/svg	10/19/2023	11/08/2023
Fatty acid- Capric Acid (C10:0)	USP <401> Fatty Acid Composition	None Detected	mg/svg	10/18/2023	10/24/2023
Fatty acid- Caprylic Acid (C8:0)	USP <401> Fatty Acid Composition	None Detected	mg/svg	10/18/2023	10/24/2023
Fatty acid- Total Medium Chain Triglycerides (MCT)	USP <401> Fatty Acid Composition	None Detected	mg/svg	10/18/2023	10/24/2023
Magnesium	BCAL-DV-AMP051	18.5	mg/svg	10/20/2023	11/06/2023
Magnesium 3-Hydroxybutyrate salt	BCAL-DV-AMP051 and BCAL-DV-AMP052	176	mg/svg	10/19/2023	11/08/2023
Sodium	BCAL-DV-AMP051	4.99	mg/svg	10/20/2023	11/06/2023
Sodium 3-Hydroxybutyrate salt	BCAL-DV-AMP051 and BCAL-DV-AMP052	27.3	mg/svg	10/19/2023	11/08/2023

## Exhibit E

72. The Non-MCT Infringing Products further meet the limitations of claim 1 as set forth below:

1. A composition for increasing ketone level in a subject, comprising:
  - a plurality of beta-hydroxybutyrate salts comprised of:
    - at least one beta-hydroxybutyrate salt selected from:
      - calcium beta-hydroxybutyrate; and
      - magnesium beta-hydroxybutyrate; and
    - at least one other beta-hydroxybutyrate salt selected from:
      - sodium beta-hydroxybutyrate;
      - potassium beta-hydroxybutyrate;
      - calcium beta-hydroxybutyrate;
      - magnesium beta-hydroxybutyrate; and
      - amino acid salts of beta-hydroxybutyrate,
  - wherein the beta-hydroxybutyrate salts comprise at least 20% by total weight of calcium beta-hydroxybutyrate and/or magnesium beta-hydroxybutyrate,
  - wherein the composition is in solid and/or powder form,**
  - wherein the composition is free of medium chain fatty acids having 6 to 12 carbons and glycerides or other esters thereof.



73. The Non-MCT Infringing Products further meet the limitations of claim

1 as set forth below:

1. A composition for increasing ketone level in a subject, comprising:
  - a plurality of beta-hydroxybutyrate salts comprised of:
    - at least one beta-hydroxybutyrate salt selected from:
      - calcium beta-hydroxybutyrate; and
      - magnesium beta-hydroxybutyrate; and
    - at least one other beta-hydroxybutyrate salt selected from:
      - sodium beta-hydroxybutyrate;
      - potassium beta-hydroxybutyrate;
      - calcium beta-hydroxybutyrate;
      - magnesium beta-hydroxybutyrate; and
      - amino acid salts of beta-hydroxybutyrate,
  - wherein the beta-hydroxybutyrate salts comprise at least 20% by total weight of calcium beta-hydroxybutyrate and/or magnesium beta-hydroxybutyrate,
  - wherein the composition is in solid and/or powder form,
  - wherein the composition is free of medium chain fatty acids having 6 to 12 carbons and glycerides or other esters thereof.**

Supplement Facts		
Serving Size: 2 Capsules		
Servings Per Container: 30		
Amount Per Serving		%DV
Proprietary Blend:	800mg	**
Magnesium Beta-Hydroxybutyrate, Calcium Beta-Hydroxybutyrate and Sodium Beta-Hydroxybutyrate		
** Daily Value (DV) not established		
Other Ingredients : Rice Flour, Gelatin(capsule), Magnesium Stearate and Silicon Dioxide.		

[www.ebay.com/itm/254028667401](http://www.ebay.com/itm/254028667401)

74. Defendants have directly infringed claim 1 of the '403 Patent in the United States by making, using, offering for sale, selling, and/or importing the Non-MCT Infringing Products in violation of 35 U.S.C. § 271(a). As such, Defendants are liable for direct infringement of the '403 Patent under 35 U.S.C. § 271(a).

75. Defendants have indirectly infringed the '403 Patent in this District and elsewhere in the United States by inducing others to make, use, offer for sale, import, and/or sell the Non-MCT Infringing Products in violation of 35 U.S.C. § 271(b). Defendants have actual knowledge of their infringement of the '403 Patent. As such, Defendants are liable for indirect infringement of the '403 Patent under 35 U.S.C. § 271(b).

76. Defendants' infringement of the '403 Patent is willful and this case is exceptional.

77. Plaintiff has suffered harm as a result of Defendants' infringement of the '403 Patent, including in the form of lost profits and diverted sales and market share. Plaintiff is therefore entitled to recover damages sustained as a result of Defendants' wrongful acts in an amount that is to be proven at trial.

**FIFTH CLAIM FOR RELIEF**  
**Patent Infringement – '362 Patent**  
**35 U.S.C. §§ 1, *et seq.***

78. Plaintiff incorporates and realleges the allegations of preceding paragraphs 1, 3-6, 9, 10, 13-24, 26, 27, and 32 as if fully set forth herein.

79. Plaintiff owns all rights in the '362 Patent.

80. On June 1, 2021, the '362 Patent, titled “Beta-hydroxybutyrate mixed salt compositions and methods of use” was duly and legally issued. A true and correct copy of the '362 Patent is attached as Exhibit C.

81. Plaintiff and its licensees have marked their products in accordance with 35 U.S.C. § 287(a).

82. Without license or authorization, Defendants make, use, import, offer for sale, and/or sell the Non-MCT Infringing Products containing compounds that infringe the '362 Patent.

83. On information and belief, although they are marketed under different brands, with different labelling and listings, each of the at least 53 Non-MCT Infringing Products is made with the same concentrations of the same ingredients, as exemplified below for Defendants' infringing Keto Platinum product:

Supplement Facts		
Serving Size: 2 Capsules		
Servings Per Container: 30		
Amount Per Serving		%DV
Proprietary Blend:	800mg	**
Magnesium Beta-Hydroxybutyrate, Calcium Beta-Hydroxybutyrate and Sodium Beta-Hydroxybutyrate		
** Daily Value (DV) not established		
Other Ingredients : Rice Flour, Gelatin(capsule), Magnesium Stearate and Silicon Dioxide.		

[www.ebay.com/itm/254028667401](http://www.ebay.com/itm/254028667401)

84. Representative claim 1 of the '362 Patent is reproduced below:

1. A composition for increasing blood ketone level in a subject, comprising:  
at least three beta-hydroxybutyrate salts selected from:  
sodium beta-hydroxybutyrate;  
potassium beta-hydroxybutyrate;  
calcium beta-hydroxybutyrate; and  
magnesium beta-hydroxybutyrate;  
wherein the composition is in solid and/or powder form,  
wherein the composition is free of medium chain fatty acids  
having 6 to 12 carbons and glycerides or other esters  
thereof.

85. As advertised in Defendants' product labels and listings, the Non-MCT

Infringing Products infringe at least representative claim 1 of the '362 Patent in the



manner described below.

86. To the extent the preamble of claim 1 is limiting, the Non-MCT Infringing Products meet the preamble of claim 1 as set forth below:

1. **A composition for increasing blood ketone level in a subject, comprising:**  
at least three beta-hydroxybutyrate salts selected from:  
sodium beta-hydroxybutyrate;  
potassium beta-hydroxybutyrate;  
calcium beta-hydroxybutyrate; and  
magnesium beta-hydroxybutyrate;  
wherein the composition is in solid and/or powder form,  
wherein the composition is free of medium chain fatty acids  
having 6 to 12 carbons and glycerides or other esters  
thereof.

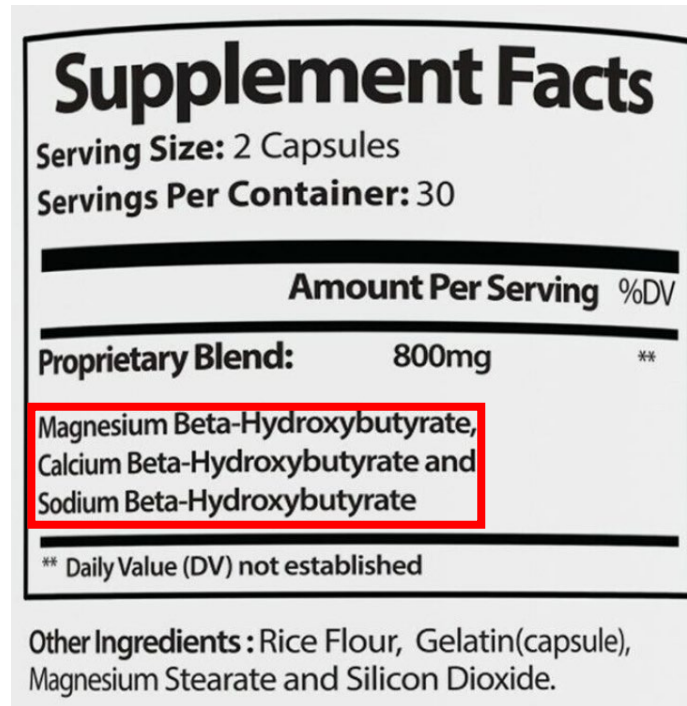
Most individuals receive energy from carbohydrates, resulting in a tired, fatigued feeling. This patented formula is made with Calcium BHB, Sodium BHB, and Magnesium BHB to help cleanse and fuel the body, **burning fat** and then using it as a **primary fuel source**. As such, this ultimate fat-burning formula not only promotes weight loss, but it's designed to boost your workout performance as well.

[www.ebay.com/itm/254028667401](http://www.ebay.com/itm/254028667401)

87. The Non-MCT Infringing Products further meet the limitations of claim 1 as set forth below:

1. A composition for increasing blood ketone level in a subject, comprising:  
**at least three beta-hydroxybutyrate salts selected from:**  
**sodium beta-hydroxybutyrate;**  
potassium beta-hydroxybutyrate;  
**calcium beta-hydroxybutyrate; and**  
**magnesium beta-hydroxybutyrate;**

wherein the composition is in solid and/or powder form,  
 wherein the composition is free of medium chain fatty acids  
 having 6 to 12 carbons and glycerides or other esters thereof.



[www.ebay.com/itm/254028667401](http://www.ebay.com/itm/254028667401)

88. The Non-MCT Infringing Products further meet the limitations of claim

1 as set forth below:

1. A composition for increasing blood ketone level in a subject, comprising:  
 at least three beta-hydroxybutyrate salts selected from:  
 sodium beta-hydroxybutyrate;  
 potassium beta-hydroxybutyrate;  
 calcium beta-hydroxybutyrate; and  
 magnesium beta-hydroxybutyrate;  
**wherein the composition is in solid and/or powder form,**  
 wherein the composition is free of medium chain fatty acids  
 having 6 to 12 carbons and glycerides or other esters thereof.



89. The Non-MCT Infringing Products further meet the limitations of claim

1 as set forth below:

1. A composition for increasing blood ketone level in a subject, comprising:
  - at least three beta-hydroxybutyrate salts selected from:
    - sodium beta-hydroxybutyrate;
    - potassium beta-hydroxybutyrate;
    - calcium beta-hydroxybutyrate; and
    - magnesium beta-hydroxybutyrate;
  - wherein the composition is in solid and/or powder form,**wherein the composition is free of medium chain fatty acids having 6 to 12 carbons and glycerides or other esters thereof.**

<b>Supplement Facts</b>		
<b>Serving Size:</b> 2 Capsules		
<b>Servings Per Container:</b> 30		
<b>Amount Per Serving</b>		<b>%DV</b>
<b>Proprietary Blend:</b>	<b>800mg</b>	<b>**</b>
Magnesium Beta-Hydroxybutyrate, Calcium Beta-Hydroxybutyrate and Sodium Beta-Hydroxybutyrate		
** Daily Value (DV) not established		
<b>Other Ingredients :</b> Rice Flour, Gelatin(capsule), Magnesium Stearate and Silicon Dioxide.		

[www.ebay.com/itm/254028667401](http://www.ebay.com/itm/254028667401)

90. Defendants have directly infringed claim 1 of the '362 Patent in the United States by making, using, offering for sale, selling, and/or importing the Non-MCT Infringing Products in violation of 35 U.S.C. § 271(a). As such, Defendants are liable for direct infringement of the '362 Patent under 35 U.S.C. § 271(a).

91. Defendants have indirectly infringed the '362 Patent in this District and elsewhere in the United States by inducing others to make, use, offer for sale, import, and/or sell the Non-MCT Infringing Products in violation of 35 U.S.C. § 271(b). Defendants have actual knowledge of their infringement of the '362 Patent. As such, Defendants are liable for indirect infringement of the '362 Patent under 35

U.S.C. § 271(b).

92. Defendants' infringement of the '362 Patent is willful and this case is exceptional.

93. Plaintiff has suffered harm as a result of Defendants' infringement of the '362 Patent, including in the form of lost profits and diverted sales and market share. Plaintiff is therefore entitled to recover damages sustained as a result of Defendants' wrongful acts in an amount that is to be proven at trial.

**SIXTH CLAIM FOR RELIEF**  
**Patent Infringement – '952 Patent**  
**35 U.S.C. §§ 1, *et seq.***

94. Plaintiff incorporates and realleges the allegations of preceding paragraphs 1, 3-6, 9, 10, 13-24, 26, 27, and 32 as if fully set forth herein.

95. Plaintiff owns all rights in the '952 Patent.

96. On May 21, 2019, the '952 Patent, titled "Mixed Salt Compositions for Maintaining or Restoring Electrolyte Balance while Producing Elevated and Sustained Ketosis" was duly and legally issued. A true and correct copy of the '952 Patent is attached as Exhibit D.

97. Plaintiff and its licensees have marked their products in accordance with 35 U.S.C. § 287(a).

98. Without license or authorization, Defendants make, use, import, offer for sale, and/or sell the MCT Infringing Products containing compounds that infringe the '952 Patent.

99. On information and belief, although they are marketed under different brands, with different labelling and listings, each of the at least ten MCT Infringing Products is made with the same concentrations of the same ingredients, as exemplified below for Defendants' infringing Fitness Keto product:



[www.ebay.com/itm/254929864799](http://www.ebay.com/itm/254929864799)

100. Representative claims 19 and 22 of the '952 Patent are reproduced below:



19. A composition for maintaining or restoring electrolyte balance while promoting or sustaining ketosis in a mammal, the composition comprising:

a beta-hydroxybutyrate mixed salt formulated from a plurality of different cations and a single anion, wherein the single anion is beta-hydroxybutyrate, and wherein other anions are omitted from the beta-hydroxybutyrate mixed salt, the cations being formulated so as to provide a biologically balanced set of cationic electrolytes upon administration to a mammal, the beta-hydroxybutyrate mixed salt comprising at least three salts selected from the group consisting of:

10-70% by weight of sodium beta-hydroxybutyrate;

10-70% by weight of potassium beta-hydroxybutyrate;

10-70% by weight of calcium beta-hydroxybutyrate; and

10-70% by weight of magnesium beta-hydroxybutyrate,

wherein the beta-hydroxybutyrate mixed salt is in solid and/or powder form.

22. The composition of claim 19, further comprising at least one medium chain fatty acid, or a mono- di- or triglyceride of the at least one medium chain fatty acid.

101. As advertised in Defendants' product labels and listings, the MCT Infringing Products infringe at least representative claims 19 and 22 of the '952 Patent in the manner described below.

102. To the extent the preamble of claim 19 is limiting, the Non-MCT Infringing Products meet the preamble of claim 19 as set forth below:

19. **A composition for maintaining or restoring electrolyte balance while promoting or sustaining ketosis in a mammal, the composition comprising:**

a beta-hydroxybutyrate mixed salt formulated from a plurality of different cations and a single anion, wherein the single anion is beta-hydroxybutyrate, and wherein other anions are

omitted from the beta-hydroxybutyrate mixed salt, the cations being formulated so as to provide a biologically balanced set of cationic electrolytes upon administration to a mammal, the beta-hydroxybutyrate mixed salt comprising at least three salts selected from the group consisting of:

10-70% by weight of sodium beta-hydroxybutyrate;  
10-70% by weight of potassium beta-hydroxybutyrate;  
10-70% by weight of calcium beta-hydroxybutyrate; and  
10-70% by weight of magnesium beta-hydroxybutyrate,  
wherein the beta-hydroxybutyrate mixed salt is in solid and/or powder form.

22. The composition of claim 19, further comprising at least one medium chain fatty acid, or a mono- di- or triglyceride of the at least one medium chain fatty acid.

**Fitness Keto Pills Weight Loss Diet Boost Energy Burn Fat**  
**Ketogenic BHB Ketones**  
#1 Keto Diet Pills Metabolic Fat Burner for Women Men!

<https://www.ebay.com/itm/254929864799>

103. The MCT Infringing Products further meet the limitations of claims 19 and 22 as set forth below:

19. A composition for maintaining or restoring electrolyte balance while promoting or sustaining ketosis in a mammal, the composition comprising:

**a beta-hydroxybutyrate mixed salt formulated from a plurality of different cations and a single anion, wherein the single anion is beta-hydroxybutyrate, and wherein other anions are omitted from the beta-hydroxybutyrate mixed salt, the cations being formulated so as to provide a biologically balanced set of cationic electrolytes upon administration to a mammal,**

the beta-hydroxybutyrate mixed salt comprising at least three salts selected from the group consisting of:

10-70% by weight of sodium beta-hydroxybutyrate;  
 10-70% by weight of potassium beta-hydroxybutyrate;  
 10-70% by weight of calcium beta-hydroxybutyrate; and  
 10-70% by weight of magnesium beta-hydroxybutyrate,  
 wherein the beta-hydroxybutyrate mixed salt is in solid and/or powder form.

22. The composition of claim 19, further comprising at least one medium chain fatty acid, or a mono- di- or triglyceride of the at least one medium chain fatty acid.



<https://www.ebay.com/itm/254929864799>

104. The MCT Infringing Products further meet the limitations of claims 19 and 22 as set forth below:

19. A composition for maintaining or restoring electrolyte balance while promoting or sustaining ketosis in a mammal, the composition comprising:  
a beta-hydroxybutyrate mixed salt formulated from a plurality of different cations and a single anion, wherein the single anion is beta-hydroxybutyrate, and wherein other anions are omitted from the beta-hydroxybutyrate mixed salt, the cations being formulated so as to provide a biologically balanced set of cationic electrolytes upon administration to a mammal,  
**the beta-hydroxybutyrate mixed salt comprising at least three salts selected from the group consisting of:**  
**10-70% by weight of sodium beta-hydroxybutyrate;**  
**10-70% by weight of potassium beta-hydroxybutyrate;**  
**10-70% by weight of calcium beta-hydroxybutyrate;**  
**and**  
**10-70% by weight of magnesium beta-hydroxybutyrate,**  
wherein the beta-hydroxybutyrate mixed salt is in solid and/or powder form.
22. The composition of claim 19, further comprising at least one medium chain fatty acid, or a mono- di- or triglyceride of the at least one medium chain fatty acid.

Sample Num: 23CH12779

Client Sample Num: EBFK092823 Fitness Keto / Total Vitamins

Comments:

Lot Number: 40031-1

Analysis	Method Reference	Result	Unit	Analysis Date	Approval Date
Beta-Hydroxybutyrate (BHB)	BCAL-DV-AMP052 HPLC	186	mg/svg	10/19/2023	11/08/2023
Calcium	BCAL-DV-AMP051	140	mg/svg	10/20/2023	11/06/2023
Calcium 3-Hydroxybutyrate salt	BCAL-DV-AMP051 and BCAL-DV-AMP052	859	mg/svg	10/19/2023	11/08/2023
Fatty acid- Capric Acid (C10:0)	USP <401> Fatty Acid Composition	None Detected	mg/svg	11/16/2023	11/20/2023
Fatty acid- Caprylic Acid (C8:0)	USP <401> Fatty Acid Composition	None Detected	mg/svg	11/16/2023	11/20/2023
Fatty acid- Total Medium Chain Triglycerides (MCT)	USP <401> Fatty Acid Composition	None Detected	mg/svg	11/16/2023	11/20/2023
Magnesium	BCAL-DV-AMP051	17.8	mg/svg	10/20/2023	11/06/2023
Magnesium 3-Hydroxybutyrate salt	BCAL-DV-AMP051 and BCAL-DV-AMP052	169	mg/svg	10/19/2023	11/08/2023
Sodium	BCAL-DV-AMP051	15.0	mg/svg	10/20/2023	11/06/2023
Sodium 3-Hydroxybutyrate salt	BCAL-DV-AMP051 and BCAL-DV-AMP052	81.9	mg/svg	10/19/2023	11/08/2023

## Exhibit F

105. The MCT Infringing Products further meet the limitations of claims 19 and 22 as set forth below:

19. A composition for maintaining or restoring electrolyte balance while promoting or sustaining ketosis in a mammal, the composition comprising:
  - a beta-hydroxybutyrate mixed salt formulated from a plurality of different cations and a single anion, wherein the single anion is beta-hydroxybutyrate, and wherein other anions are omitted from the beta-hydroxybutyrate mixed salt, the cations being formulated so as to provide a biologically balanced set of cationic electrolytes upon administration to a mammal,
  - the beta-hydroxybutyrate mixed salt comprising at least three salts selected from the group consisting of:
    - 10-70% by weight of sodium beta-hydroxybutyrate;
    - 10-70% by weight of potassium beta-hydroxybutyrate;
    - 10-70% by weight of calcium beta-hydroxybutyrate; and

10-70% by weight of magnesium beta-hydroxybutyrate,  
**wherein the beta-hydroxybutyrate mixed salt is in solid  
and/or powder form.**

22. The composition of claim 19, further comprising at least one medium chain fatty acid, or a mono- di- or triglyceride of the at least one medium chain fatty acid.



106. The MCT Infringing Products further meet the limitations of claims 19 and 22 as set forth below:

19. A composition for maintaining or restoring electrolyte balance while promoting or sustaining ketosis in a mammal, the composition comprising:

a beta-hydroxybutyrate mixed salt formulated from a plurality of different cations and a single anion, wherein the single anion is beta-hydroxybutyrate, and wherein other anions are omitted from the beta-hydroxybutyrate mixed salt, the cations being formulated so as to provide a biologically balanced set of cationic electrolytes upon administration to a mammal, the beta-hydroxybutyrate mixed salt comprising at least three salts selected from the group consisting of:

10-70% by weight of sodium beta-hydroxybutyrate;



10-70% by weight of potassium beta-hydroxybutyrate;  
 10-70% by weight of calcium beta-hydroxybutyrate; and  
 10-70% by weight of magnesium beta-hydroxybutyrate,  
 wherein the beta-hydroxybutyrate mixed salt is in solid and/or  
 powder form.

22. **The composition of claim 19, further comprising at least one medium chain fatty acid, or a mono- di- or triglyceride of the at least one medium chain fatty acid.**



<https://www.ebay.com/itm/254929864799>

107. Defendants have directly infringed claims 19 and 22 of the '952 Patent in the United States by making, using, offering for sale, selling, and/or importing the MCT Infringing Products in violation of 35 U.S.C. § 271(a). As such, Defendants are liable for direct infringement of the '952 Patent under 35 U.S.C. § 271(a).

108. Defendants have indirectly infringed the '952 Patent in this District and

elsewhere in the United States by inducing others to make, use, offer for sale, import, and/or sell the MCT Infringing Products in violation of 35 U.S.C. § 271(b). Defendants have actual knowledge of their infringement of the '952 Patent. As such, Defendants are liable for indirect infringement of the '952 Patent under 35 U.S.C. § 271(b).

109. Defendants' infringement of the '952 Patent is willful and this case is exceptional.

110. Plaintiff has suffered harm as a result of Defendants' infringement of the '952 Patent, including in the form of lost profits and diverted sales and market share. Plaintiff is therefore entitled to recover damages sustained as a result of Defendants' wrongful acts in an amount that is to be proven at trial.

### **PRAYER FOR RELIEF**

Wherefore, Plaintiff respectfully prays that the Court enter judgment in its favor and award the following relief against Defendants:

A. A judgment that Defendants infringed the '403 Patent directly and indirectly by inducement;

B. A judgment that Defendants infringed the '362 Patent directly and indirectly by inducement;

C. A judgment that Defendants infringed the '952 Patent directly and indirectly by inducement;

D. A judgment that Defendants infringed Plaintiff's rights in the goBHB<sup>®</sup> mark;

E. A judgment that Defendants falsely advertised the Accused Products and unfairly competed with Plaintiff;

F. A finding that the Defendants' misconduct alleged herein was willful and that this case is exceptional;

G. An order and judgment enjoining Defendants and their officers, directors, employees, agents, licensees, representatives, affiliates, related companies, servants, successors and assigns, and any and all persons acting in privity or in concert with any of them, from infringing Plaintiff's patents or trademarks, from falsely advertising any products, or from unfairly competing with Plaintiff;

H. An award of actual damages in an amount to be determined at trial for patent infringement, trademark infringement, false advertising, and unfair competition;

I. Disgorgement of Defendants' profits associated with Defendants' trademark infringement, false advertising, and unfair competition;

J. Plaintiff's costs and attorneys' fees;

- K. A judgment for treble damages and other punitive damages;
- L. An order and judgment for Defendants to promulgate corrective advertising by the same media and with the same distribution and frequency as the false advertising for the Accused Products;
- M. Any such other and further relief as the Court deems proper.

**DEMAND FOR JURY TRIAL**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff  
demands a jury trial on all matters triable to a jury.

DATED December 29, 2023.

Respectfully submitted,

/s/ Cortney S. Alexander  
Cortney S. Alexander  
Ga. Bar No. 142690  
[cortneyalexander@kentrisley.com](mailto:cortneyalexander@kentrisley.com)  
KENT & RISLEY LLC  
5755 N Point Pkwy Ste 57  
Alpharetta, GA 30022  
Tel: (404) 855-3867  
Fax: (770) 462-3299

Brian N. Platt (*pro hac vice forthcoming*)  
[bplatt@wnlaw.com](mailto:bplatt@wnlaw.com)  
Collin D. Hansen (*pro hac vice forthcoming*)  
[cnydegger@wnlaw.com](mailto:cnydegger@wnlaw.com)  
WORKMAN | NYDEGGER  
60 East South Temple, Suite 1000  
Salt Lake City, UT 84111  
Tel: (801) 533-9800

*Counsel for Plaintiff Axxess Global  
Sciences, LLC*